SUPREME COURT, U. S.

NO. 282

FILED
OCT 31 1967
JOHN F. DAVIS, CLERK

In the
Supreme Court of the United States

OCTOBER TERM, 1967

EAST BATON ROUGE PARISH SCHOOL BOARD, ET AL.,
Petitioners,

v.

CLIFFORD EUGENE DAVIS, JR., ET AL.,
Respondents.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

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INDEX

PAGE

Reasons for granting rehearing and issuing the writ:

1. Discussion of circuit court decisions rendered since petition for certiorari which are in direct and explicit conflict with *Jefferson*.... 1
2. Discussion of district court decisions of other circuits since *Jefferson* 5
3. Discussion of result of denial of certiorari in *Deal* and *Jefferson* 11
4. Discussion of additional and intervening circumstances at the district court level in the fifth circuit since *Jefferson* 13

Conclusion 21

Certificate of Counsel 22

Certificate of Service 23

CITATIONS

Bowman v. County School Board of Charles City County Virginia, Et Al., No. 10793, 4th Cir. decided June 12, 1967 2

Charles v. Ascension Parish School Board, Number 3257, U.S. District Court, Eastern District of Louisiana, Baton Rouge Division, September 5, 1967 13

Coppedge v. The Franklin Board of Education, United States of America, Intervenor, Civil No. 1796 of the Raleigh Division of the Eastern District of North Carolina 8

Deal v. Cincinnati Board of Education 369 F.2d 55 (C.A. 6, 1966) 11

PAGE

Duignan v. United States 274 U.S. 195, 200 7

Dunn v. Livingston Parish School Board, Number 3197 U.S. District Court, Eastern District of Louisiana, Baton Rouge Division, September 5, 1967 13

Hobson v. Hansen, ...F.2d.....(D.C.D.C. 1967 19

Hormel v. Helvering, 312 U.S. 552, 556 7

Lockett v. Board of Education of Muskogee County School District, Number 991 U.S. District Court, Middle District of Georgia, Columbus Division 9

Monroe v. Board of Commissioners City of Jackson Tennessee, Et Al. and County Board of Education of Madison County, Tennessee, Et Al Nos. 17118 and 17119, 6th Cir. (decided July 21, 1967) 2, 4

Moses v. Washington Parish School Board Et Al, Civil Action No. 15973, U.S. District Court, Eastern District of Louisiana, New Orleans Division, filed October 19, 1967 18

Raney v. The Board of Education of the Gould School District, No. 18527 (8th cir.) 5

Smith v. American Guild of Variety Artists 8th Circuit, 368 F2d 511, 514 7

Thomas v. West Baton Rouge Parish School Board Number 3208, U.S. District Court, Eastern District of Louisiana, Baton Rouge Division, September 5, 1967 13

Williams v. Iberville Parish School Board, Number 2921 U.S. District Court, Eastern District of Louisiana, Baton Rouge Division, September 5, 1967 ..... 6, 13, 16

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PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioner prays that this Court grant rehearing of its order of October 9, 1967 denying the petition for writ of certiorari in this case and that a writ of certiorari issue to review the judgment of the Court of Appeals for the Fifth Circuit in the above entitled case as prayed for in the petition filed June 20, 1967.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT

1. Although, at the time of this Court's order of October 9, 1967, there was already a conflict of decisions between the various Circuit Courts of Appeal on some or all of the questions sought to be reviewed, since that time a further direct and explicit conflict has arisen.

In our original petition we pointed out what appears to be an apparent conflict between the decision of the Court below and many of the decisions of the other Circuit Courts. See original petition No. 282, P. 23. There are now two other cases from the Fourth and Sixth Circuit Courts of Appeal, *Bowman v. County School Board of Charles City County Virginia, et al.*, No. 10793, 4th Cir. (decided June 12, 1967) and *Monroe v. Board of Commissioners City of Jackson Tennessee, et al.*, and *County Board of Education of Madison County, Tennessee, et al.* Nos. 17118 and 17119, 6th Cir. (decided July 21, 1967), both decided subsequent to the decision of the Court below which are in direct and explicit conflict with at least portions of the decision of the Court below.

The conflict between *Jefferson* and *Bowman* is pointed up by the following statements of the two respective Circuit Courts. In the March 29, 1967 decision of the Fifth Circuit, sitting en banc, in *United States, et al. v. Jefferson County Board of Education, et al.*, the Court said at Page 5:

> "The Court holds that Boards and officials administering public schools in this Circuit have the *affirmative duty* under the Fourteenth Amendment *to bring about* an *integrated unitary school system* in which there are no Negro schools and no white schools, just schools. *Expressions in our earlier opinions distinguishing between integration and desegration must yield to this affirmative duty we now recognize . . .*" (Emphasis added)

Again, on Page 6 of that opinion, the Fifth Circuit said:

> "5. The percentages referred to in the guidelines and in this Court's decree are simply a rough rule of thumb for measuring the effectiveness of freedom of choice as a useful tool. The percentages are not a method for setting quotas or striking a balance. If the plan is ineffective, . . . the school officials charged with initiating and administering a unitary system have not met the constitutional requirements of the Fourteenth Amendment; . . ."

and, further on at Page 7, the Court below said:

> 'In constructing the original and revised decrees, the Court gave great weight to the 1965 and 1966 HEW Guidelines. *These Guidelines establish minimum standards clearly applicable to disestablishing state sanctioned segregation . . .*" (Emphasis added)

Section 181.54, sub-paragraphs 1, 2, 3 and 4, of the HEW Guidelines referred to and adopted as minimum standards by the Court below, require at lease 15% to 20% of the Negro students to have chosen white schools for the 1966-67 school year for the freedom of choice plan to continue to be Constitutional. Even in 1967-68, in this school system, acting in accordance with and under the provisions of the *Jefferson* decision and decree, the Negro children have not chosen white schools in such percentages. Obviously, the Court below will now, or in the very near future, require compulsive assignment of Negro students in order to achieve the required percentages in this system. Yet, and in direct

and explicit conflict with the above quoted holding and result, the Fourth Circuit in *Bowman*, speaking through Chief Judge Haynsworth, specifically rejects such holding and result when it said at Page 2:

> "In this school case, the Negro plaintiffs attack, as a deprivation of their constitutional rights, a "freedom of choice" plan, under which each Negro pupil has an acknowledged, "unrestricted right" to attend any school in the system he wishes. *They contend that compulsive assignments to achieve a greater intermixture of the races, notwithstanding their individual choices, is their due. We cannot accept that contention*, though a related point affecting the assignment of teachers is not without merit." (Emphasis added)

The other decision of another Circuit Court of Appeal (Sixth Circuit) which is in direct and explicit conflict with the decision of the Court below, and which was rendered since the decision of the Court below, is the case of *Monroe v. Board of Commissioners, City of Jackson Tennessee, et al.*, supra, decided on July 21, 1967, subsequent to the filing of our petition for certiorari. As pointed out in our original petition for certiorari, the Court below has drawn a constitutional difference between so called de facto segregated school systems and so called de jure segregated school systems allegedly found in the Fifth Circuit. *Jefferson I*, Page 63, et seq., *Jefferson II*, Page 5, Footnote 1. The Sixth Circuit, which also decided *Deal v. Cincinnati Board of Education*, 369 F. 2d 55 (C.A.6, 1966), petition for Cert. filed, 35 L.W. 3394 (U.S. May 5, 1967) (Cert. denied October 9, 1967) which involved a so called de

facto segregated situation, in deciding the *Monroe* case, which involved a so called dejure segregated system identical to those in the Fifth Circuit, specifically rejected the constitutional distinction found by the Court below when it said at Page 3:

> 'We are at once aware that we were there dealing with the Cincinnati schools which had been desegregated long before *Brown*, whereas we consider here Tennessee schools desegregated only after and in obedience to *Brown*. We are not persuaded, however, that we should devise a mathematical rule that will impose a different and more stringent duty upon states, which, prior to *Brown*, maintained a dejure bi-racial school system, than upon those in which the racial imbalance in its schools has come about from so called de facto segregation—this to be true even though the current problem be the same in each state".

Thus, we have yet another decision of another Circuit Court of Appeals rendered subsequent to Jefferson and subsequent to our petition for certiorari which is in direct and explicit conflict with the decision of the Court below.

2. Since our petition for certiorari was originally filed, another Circuit Court of Appeals has refused to follow Jefferson and two United States District Courts in other circuits have issued widely divergent orders, one following Jefferson and one apparently refusing to do so.

The United States Court of Appeals for the Eighth Circuit in the case of *Raney v. The Board of Education of the Gould School District*, No. 18527 filed August 9,

1967, Rehearing denied September 18, 1967, refused to follow Jefferson in at least three respects. First, the Court indicated that it had some doubt that a Court could enjoin a school construction program at all. At most, it found that it could do so only when such program "is designed to perpetuate segregation." (Raney, Page 3) This is at complete variance with *Jefferson* which in Section 7 of the Decree entitled "New Construction" provides that school boards shall "locate any new schools and substantially expand any existing schools with the objective of eradicating the vestiges of the dual system." *Raney* follows the Fourteenth Amendment and *Brown* by prohibiting action "designed to" perpetuate a violation of the Fourteenth Amendment. *Jefferson* apparently means that you build and locate schools so as to attain a certain percentage of white and Negro students in each school regardless of such being educationally and financially unsound, or even financially impossible.

The Justice Department, in its motion for further relief recently filed in Civil Action No. 2921, *Williams, et al., v. Iberville Parish School Board*, affirmatively takes the position that the educationally sound "neighborhood school system" is now, under *Jefferson*, illegal and unlawful in the Fifth Circuit. If this Court did not intend such a result when it denied our application for certiorari, it needs to so advise the Justice Department and opposing counsel by granting our application for rehearing, granting certiorari, and clarifying for all parties concerned exactly what this Court means the law to be.

Raney is in further specific and explicit conflict with Jefferson in that it recognizes that a school board which has taken good faith steps to desegregate its system is entitled to a greater consideration and less stringent orders than some other school system which may have failed and refused to take any steps toward desegregation of its system. At page 9 of *Raney*, the Eighth Circuit said:

> "Plaintiffs alternately upon this appeal ask us to issue a comprehensive decree governing the desegregation process similar to that in *Kelley v. Altheimer*, Eighth Circuit, ...F. 2d..... (April 12, 1967). The record in this case does not warrant such relief. Unlike the Altheimer situation, no attack has been made in the pleadings on the desegregation plan adopted by the board. Additionally, we find no substantial evidence to support a finding that the board was not proceeding to carry out the plan in good faith."

Raney is further in conflict with *Jefferson* in that the Eighth Circuit recognizes, as *Jefferson* did not with respect to the distinction between de jure and de facto segregation, that "issues not fairly raised in the District Court cannot ordinarily be considered upon appeal." *Hormel v. Helvering* 312 U.S. 552, 556; *Duignan v. United States*, 274 U.S. 195, 200; *Smith v. American Guild of Variety Artists*, 8th Circuit, 368 F.2d 511, 514."

In addition to *Raney*, there have been two District Court decisions, one from the Eastern District of North Carolina, Raleigh Division, and one from the Middle District of Georgia, Columbus Division, which

are so widely divergent in their interpretation of the law as to indicate clearly the necessity for review of *Jefferson* by this Court.

In the case of *Coppedge v. The Franklin Board of Education, United States of America, Intervenor, Civil No. 1796 of the Raleigh Division of the Eastern District of North Carolina*, the District Court not only follows *Jefferson* but even carries out its "portent for the future". The Court finds, in its Conclusions of Law, No. 3, at Page 14 of the opinion, that Negro students have not chosen to attend white schools under the freedom of choice plan in sufficient numbers to meet the requirements of the HEW Guidelines and that therefore the freedom of choice has become constitutionally impermissible. Thereupon, in the order and the decree attached to the opinion, the Court requires that school system to abandon its freedom of choice plan and present to the Court by October 15, 1967 "a plan for the assignment, at the earliest practicable date, of all students upon the basis of a unitary system of non-racial geographic attendance zones, or a plan for the consolidation of grades, or schools, or both." The Court then goes a step further and orders the school board, pending court approval of the new plan, to "transfer for the 1967-68 school year a sufficient number of Negro students to predominantly white schools so that at least 10% of the Negro students in the system will attend predominantly white schools." This is the final step before compulsory assignment of a certain percentage of Negro students to each school which *Jefferson* ultimately requires. *This*

will be the final result throughout the South, and only the South, if Jefferson is allowed to stand as the law of the land.

On the other hand, the United States District Court for the Middle District of Georgia, Columbus Division, in Civil Action No. 991, *Lockett v. Muskogee County School District, Georgia;* (Further action at the District Court level in *Lockett*, 342 F. 2d 225, 5th Cir., 1965) has now refused to follow *Jefferson*, at least in part, by refusing to issue the blanket detailed decree required by *Jefferson*. On Page 2 of its memorandum opinion and order, the United States District Court said:

> "Relying upon the decision of the Court of Appeals for the Fifth Circuit in *United States v. Jefferson County Board of Education*, 372 F. 2d 836, counsel for the plaintiffs have now filed a motion for further relief asking in substance that this Court enter a blanket order in this case in the terms of *Jefferson*. A hearing on the plaintiff's motion was had and evidence was submitted. The defendant board assumed the burden of demonstrating that a decree of the nature and in the language of *Jefferson* was neither necessary nor desirable in the circumstances.

The Court then said at Page 10 of its memorandum opinion:

> "There is no evidence in this case that suggests the necessity for the entry of any further order at this time. . . . Where a local school board is earnestly striving to comply with constitutional requirements in the operation of its schools and is

> successfully doing so, *such a board should not be fettered with needless directions emanating from the Court.*" (Emphasis added)

Yet, as will be pointed out in more detail hereafter, when the District Court for the Eastern District of Louisiana, Baton Rouge Division, declined to hand all boards in his jurisdiction the blanket *Jefferson* Decree, he was summarily reversed by the Fifth Circuit Court of Appeals. It is also worth noting that although some school boards within the jurisdiction of the District Court for the Eastern District of Louisiana have been cited for contempt for failure to carry out a new choice period right at the opening of schools and although the Justice Department is now insisting, through a motion for further relief, that one school system reassign students even during the school year and even though a choice period was held during the spring, the District Court for the Middle District of Georgia, has refused to order such unnecessary and harmful action for the Muskogee County School Board. At page 9 of its memorandum opinion, the Court says:

> "It is also the opinion of the Court that to conduct another choice period at this late date and under the circumstances existing would bring about confusion in the functioning of the schools which are already completely organized and ready to begin operations next month. Instead of benefiting the program of desegregation, it is felt that the confusion resulting in the minds of the parents of the children would hinder the accomplishment of the objectives of desegregation."

It seems apparent that the Justice Department

and HEW consider Jefferson as having given them *carte blanche* to constantly harass school boards throughout the South, picking and choosing according to the personal whims of those in charge of those two departments in order to immediately force integration of the school systems. Not only do the school systems themselves need some direction from this Court, but we respectfully submit that the Justice Department and HEW also need some direction from this Court. Education for *all* children constantly deteriorates under such continued harassment.

3. In addition to the subsequent and intervening decisions mentioned above which are in direct and explicit conflict with at least portions of the decision of the Court below, we noted with interest that this Court on October 9, 1967 also refused to grant certiorari in the case of *Deal v. Cincinnati Board of Education*, 369 F. 2d 55 also decided by the Sixth Circuit. If *Deal* and *Jefferson* are not in direct and explicit conflict, the refusal of this Court to grant certiorari in both of these cases implies recognition and affirmance by this Court of a constitutional difference between Ohio and Louisiana. It implies an affirmance of different constitutional rights for the citizens of Ohio as compared to the citizens of Louisiana. The Negro children in *Deal* were asking for compulsory racial assignment to achieve a greater intermixture of the races. *Their demands were rejected by the Sixth Circuit.* The Negro children in the Court below were requesting, ultimately, compulsory racial assignment to achieve a greater intermixture of the races. *Their demands were*

granted by the Court below. Such a disparate application of constitutional principals to the citizens of various states should not be summarily decided by a mere refusal to grant certiorari in different cases.

If, on the other hand, by refusing to grant certiorari in these two cases, *Deal* and *Jefferson*, this Court only intended to indicate its approval of the finding by the Court below that segregated residential housing patterns in Cincinnati result from different causes than do segregated residential housing patterns in Baton Rouge, then this Court is approving a finding of fact by the Court below which is not supported by one iota of evidence in the record before the Court below and furthermore is approving a finding of fact which was not urged by any party in the Court below. There is no doubt that in many communities in Louisiana the Negroes and whites live in separate areas just as they do in Cincinnati, Ohio. There can also be no doubt that the reason for the Negro people and the white people tending to live in separate areas of a community is the same in Cincinnati as it is in Baton Rouge, i.e., one or both of the races has chosen to do so. Common sense indicates to anyone that the above is true. And, there is not one shred of evidence to the contrary in the record before the Court below. There can be no real doubt that the segregation which exists in the desegregated school system in Cincinnati is caused by this segregated residential housing pattern just as the segregation which results in the desegregated school system in Baton Rouge also results from this segregated housing pattern. There is no actual

factual difference between the two situations and the legal distinction drawn by the Court below is but a devious and invidious one designed to accomplish a desired result. *Such a fine, hair splitting distinction should not be allowed, by action of this Court in merely refusing certiorari, to create the application of such disparate constitutional principles to the various areas of this nation.*

4. Other intervening circumstances which we believe should justify this Court in granting our petition for re-hearing and issuing a writ of certiorari to review the judgment of the Court below are the happenings in the Fifth Circuit at the District Court level which have occurred subsequent to and under the provisions of the decision of the Court below and the detailed decree issued by it in Civil Action No. 2921, *Williams v. Iberville Parish School Board*, No. 3197 *Dunn v. Livingston Parish School Board*, Civil Action No. 3257 *Charles v. Ascension Parish School Board*, and Civil Action No. 3208 *Thomas v. West Baton Rouge Parish School Board.* In May of this year, the District Court for the Eastern District of Louisiana, Baton Rouge Division, declined to issue the decree of the Court below to all school boards within his jurisdiction feeling that he still had discretion, based upon the evidence presented in his Court, to fashion an order and decree suitable for each particular board under the circumstances, although his orders followed the decision of the Court below in requiring immediate desegregation of all grades for the 1967-68 school year and the commencement of faculty desegregation for

that same year. On appeal, the District Court was summarily reversed by the Court of Appeals without the appellees having an opportunity to be heard on the appeal. We know of no provision in the Federal Rules of Civil Procedure which authorizes such summary reversal. Thereafter, on August 7, 1967, the District Court issued the *Jefferson* Decree to all of the Boards in his jurisdiction. The decree ordered those school boards to hold a free choice period, between the dates August 1, 1967 and September 1, 1967, even though these Boards had already held a choice period in the spring under their previous Court Order. This order was not issued until August 7, 1967 and was not served on these Boards until approximately August 15, 1967. At this point all four boards had, many months before, scheduled school opening for the dates of August 28 through September 5. Obviously, these four Boards, not having been served with the new order until August 15, could not comply with its command to hold a new choice period commencing August 1. Two of the Boards attempted to comply by postponing school one week and holding a short bob-tailed two week choice period. These two Boards, Ascension Parish and West Baton Rouge Parish, employed principals and assistant principals on a 12 month basis and had the personnel to attempt such a task right at the opening of school. The other two Boards, Iberville Parish and Livingston Parish, have been financially unable to employ principals and assistant principals on a 12 month basis and employ them for only nine months of the year. Because of this, these two boards decided, as a matter of educa-

tional judgment, that they could not at that late date establish a new choice period and send out the notices, etc. required by Jefferson without completely disrupting the opening of schools as teachers had already been employed and assigned to schools, pupils had been assigned, etc.

All four of these Boards were served with a citation for civil contempt on Thursday, August 31 and Friday, September 1, the hearing having been noticed for Tuesday, September 5, the first day after the Labor Day holiday weekend. You can imagine the difficulty in preparing for such a serious hearing on such short notice. On the morning of the hearing, counsel for plaintiffs admitted that they had not taken the trouble to find out that two of the Boards, West Baton Rouge and Ascension, had attempted to hold an additional choice period in compliance with the specifics of the Jefferson decree, and moved the Court for dismissal of the contempt citation against those two Boards. A hearing was held on that same day on the contempt citation against the other two Boards, Iberville and Livingston Parish. The District Judge overruled all motions filed on behalf of the Iberville Parish School Board, including motion to dismiss because of insufficiency of process and insufficieney of service of process, motion to strike paragraph of complaint as improperly alleged and as immaterial, motion for judgment on the pleadings and, in the alternative, motion for summary judgment and motion for enlargement of time in which to plead and for continuance of the hearing on the rule to show cause. Plaintiffs pre-

sented no evidence in support of their citation for contempt except to call the superintendents of the two school boards whose testimony clearly indicated the difficulty of their position in attempting any such additional choice period at that late date, particularly when they had held a previous choice period in which all of the Negro children had been given ample opportunity to make a choice and in which great numbers of them had chosen to attend previously all white schools. The District Court found that under the circumstances there had been not intent to evade or disobey his order and that there had been good faith substantial compliance with same. His decision in finding these two Boards not in contempt of his own order is now on appeal to the Fifth Circuit Court of Appeals. It is interesting to note that although the United States Government is a party intervenor in these four suits, it did not join in filing the citations for contempt. Such action on the part of the plaintiffs in these circumstances is either the rankest type of harassment or else indicates a complete lack of concern for the welfare and education of all of the children attending that school system. A school system can not long continue to exist when its governing body and superintendent are being constantly harassed by legal action preventing them from carrying out the day to day operation of the school system.

In addition, on September 27, 1967 the United States Government noticed for hearing on October 20, 1967, a new motion for further relief in the Iberville School Board case, Civil Action No. 2921, which motion

requested: (1) the assignment of at least two white teachers to every Negro school and two Negro teachers to each white school even though this school board had already assigned some white teachers to Negro schools and some Negro teachers to white schools; the enjoinment of the school board from all planning or construction of schools at two presently proposed sites which have already been purchased by the board; and (3) the reassignment of both Negro and white children in the middle of the school year. In support of this motion, the Government issued subpoenas to the superintendent of schools for Iberville Parish and the President of the Iberville Parish School Board requiring them to produce on October 6, the proposed date of deposition, a volume of detailed information, documents, correspondence, etc. This necessitated the superintendent dropping everything else to do with the proper operation of his educational system just to try to compile the information required by the subpoena.

In addition, the Department of Health, Education and Welfare has now sent all school boards, even though they are under court order, numerous forms to be filled out containing detailed information, some of which has already been submitted to the Court under the Jefferson decree. This also further burdens the proper operation of an educational system.

This is the type of harassment that all boards throughout the Fifth Circuit will have to contend with if Jefferson is allowed to stand, even impliedly under a denial of certiorari, as the law of the land. *It is impossible to properly operate an educational system any-*

where under these conditions. It virtually requires a school board to clear with HEW, the Justice Department, the District Judge, opposing counsel, both locally and in New Orleans and New York, before doing anything. It appears that any action taken by a Board which has not previously been okayed by all of those agencies or persons will result in the Board being noticed into court for further punishment. We respectfully submit that neither the Brown decision nor any other decision of this Court ever contemplated the operation of a school system under such conditions.

Furthermore, while this Application for Re-Hearing was being prepared the United States District Court for the Eastern District of Louisiana, New Orleans Division, in the case of *Moses v. Washington Parish School Board,* et al, Civil Action No. 15973, has already taken the further step implied as the "portent for the future" of *Jefferson.* On October 19, 1967, that Court issued an Order requiring the Washington Parish School Board to submit to it, by November 15, 1967, maps and supplemental data establishing single geographic school districts to be put into effect for the second semester of this school year. It requires them to abandon the freedom of choice plan under which the school system had been operating. This, even though the Court specifically did not find "that 'free choice' has not 'worked' to integrate the school system . . .", nor did the Court "abolish the system because we have found the choice of the students forced by the state or external influences and not in fact 'free'; . . ." (*Moses*

v. Washington Parish School Board—Memorandum Opinion, pages 14 & 15)

Instead, the Court, without any reference to any evidence or testimony, appears to conclude that, *in his opinion*, a single geographic zone system is educationally and administratively preferable. It appears from the several quotations therefrom that the District Court both rejects and relies on *Jefferson* and also relies on the recent decision in *Hobson v. Hanson*, ...Fed.2d..... (D.C.D.C. 1967) to make this educational decision. We have previously, in our supplemental brief in support of certiorari, commented at length on the improper assumption of educational authority in *Hobson*. No Court, to our knowledge, has ever cited any constitutional authority for the courts to assume the burden of making educational decisions for local school boards.

In addition to the court entering a field "alien to its expertise, its complete lack of understanding of the problems involved in operating a school system is emphasized by the fact that it gave the defendant school board less than thirty (30) days to present such single geographic zone plan. This is physically impossible. Many of the schools in a small school system have different curriculums. Many of the schools contain different grade levels. For example, one school may contain grades 1 through 6 while another school contains only grades 1 through 4. Another school may contain grades 1 through 12 while another contains only grades 8 through 12. One school may provide only 25 units of subject matter while another may provide 32 units.

These factors have resulted, at least in part, from the financial limitations of the school systems over the past 25 or 50 years when certain schools were being constructed. All of these factors must be taken into consideration in attempting to formulate a single geographic zone system and must be considered in relation to the physical residence of each child in the system and the grade level at which that child happens to be. *It is impossible for this volume of information to be gathered and properly corrolated for an educationally reasonable single geographic zone system to be formulated within the short time given this School Board.*

If the Court is going to require a particular school system to go to a single geographic zone system, the very least that it should do, from an educational and administrative standpoint, is to give the school board ample time to gather and corrolate such information, as, for example, not requiring the zone system to be implemented until the following school year. Furthermore, the court completely overlooks the educational hardship imposed upon *all* students in the system by being so disrupted in the middle of the school year.

Because of the conflict between decisions of the other Circuit Courts of Appeal and the decision of the Court below, as previously set forth in our petition for certiorari, and particularly because of the direct and explicit conflict between the decision of the Court below and the decision of the Court of Appeals for the Sixth Circuit in *Monroe v. Board of Commissioners, City of Jackson, Tenn., et al.* Nos. 17118 and 17119, decided July 21, 1967, and *Raney v. The Board of Edu-*

cation of the Gould School District, No. 18,527 (Eighth Circuit) filed August 9, 1967, rehearing denied September 18, 1967, it is clear that the Court has authority and justification under its prior decisions to grant this petition for rehearing and issue a writ of certiorari.

CONCLUSION

For the reasons set forth above and in the petition for writ of certiorari and supplemental brief in support thereof, it is respectfully urged that rehearing be granted and that, upon such rehearing a writ of certiorari issue to the Court of Appeals for the Fifth Circuit in the above entitled case as prayed for in the petition filed June 20, 1967.

Respectfully submitted,

By Attorneys:

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By: _____

John F. Ward, Jr.,
Counsel for Petitioner.

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

John F. Ward, Jr.,
Counsel for Petitioner.

CERTIFICATE OF SERVICE

I, John F. Ward, Jr., attorney for petitioner and a member of the Bar of the United States Supreme Court, do hereby certify that on this 31st day of October, 1967, I served copies of the foregoing application for Rehearing of Order Denying Petition for Writ of Certiorari on all attorneys for respondents by mailing same, postage prepaid, to their respective offices as shown below:

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B-1139, 10-67